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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,363	07/14/2003	Timothy L. Neal	GP-302653	6801

7590 10/21/2004

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EXAMINER
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CORRIGAN, JAIME W

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/619,363

Applicant(s)

NEAL, TIMOTHY L.

Examiner

Jaime W Corrigan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office Action is in response to the Request for Reconsideration filed on 19 July 2004. Claims 2, 5 have been amended. Claims 8-9 have been added. Overall, claims 1-9 are pending in this application. The arguments with respect to the references applied in the first Office Action were not deemed persuasive. A Final rejection is set forth below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Feuling (PN 5,085,181).

Regarding claim 1 Feuling discloses an internal combustion engine (See Abstract) having a plurality of cylinders containing pistons connected with a crankshaft for transmitting power, the cylinders having closed ends, intake and exhaust ports communicating with the cylinders, valves (See Abstract) operable to open and close the ports to air and exhaust flow to and from the cylinders, a pressure oil lubrication system operative to lubricate (See Abstract, Column 1 Lines 51-55, 63-67, Column 3 Lines 16-24, 39-42) at least the cylinders, pistons and crankshaft of the engine, and the improvement comprising: a valve actuating system including hydraulic actuators (See

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Figures 1-2 (18)) operable to actuate the valves; and a pressure oil hydraulic system separate (See Abstract, Column 1 Lines 51-55, 63-67, Column 2 Lines 54-60, Column 3 Lines 16-24, 39-42) from the lubrication system and operative to selectively (See Abstract, Column 1 Lines 51-55, 63-67, Column 2 Lines 10-33, 61-68, Column 3 Lines 1-7, 16-24, 39-42) supply pressure hydraulic oil to the hydraulic actuators to actuate the valves in a predetermined manner.

***Allowable Subject Matter***

Claims 2-9 are allowed.

***Response to Arguments***

Applicant's arguments filed 19 July 2004 have been fully considered but they are not persuasive.

In response to Applicant's argument that Feuling does not utilize separate systems. It is the Examiner's position that separate systems are being used since the same pump uses one output at one pressure for conventional engine lubrication (See Column 1 Lines 63-68) and another output to operate the lifters (See Column 1 Lines 63-68) at varying pressures (See Column 1 Lines 67-68, Column 2 Lines 1-9). Additionally, the Examiner would like to point out that Feuling discloses using a pump for lifter operation that is separate and independent (See Column 2 Lines 10-33) from the conventional engine lubrication pump.

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In response to Applicant's argument that the lifters of Feuling only adjust lash. The Examiner would like to point out Feuling discloses the lifters altering the lift and duration (See Column 2 Lines 1-10, 34-53, 61-68, Column 3 Lines 1-7).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fenelone et al. (US 2003/0168031 A1), Masuda (PN 5,617,822), Masuda (PN 5,511,523) disclose similar lubrication systems.

Any inquiry concerning this communication from the examiner should be directed to Examiner Jaime Corrigan whose Crystal City telephone number is (703) 308-2639 and the Carlyle telephone number (as of 11-23-04) is (571) 272-4858. The examiner can normally be reached on Monday - Friday from 8:30 a.m. - 6:00 p.m. 2<sup>nd</sup> Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (703) 308-2623. The fax number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

JC

Jaime Corrigan

*Jaime Corrigan*  
Patent Examiner

October 19, 2004

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*Thomas Denion*  
THOMAS DENION  
SUPERVISORY PATENT EXAMINER  
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